

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 297

Introduced by Assembly Member Galgiani

February 9, 2011

~~An act to amend Section 10115 of the Public Contract Code, relating to public contracts. An act to add Article 6.5 (commencing with Section 999.30) to Chapter 6 of Division 4 of the Military and Veterans Code, relating to public contracts.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 297, as amended, Galgiani. Public contracts: ~~participation goals;~~ veterans preference.

Existing law requires state departments that award specified types of contracts to establish a 3% participation goal for certified disabled veteran business enterprises, as defined. Existing law makes it a crime to, among other things, willfully make false statements or to fraudulently obtain certification as a disabled veteran business enterprise, as specified.

This bill would allow a bid preference, as provided, to a bidder of a public works contract if that bidder utilizes the Center for Military Recruitment, Assessment, and Veterans Employment's Helmets to Hardhats program, as specified. This bill would require that the bidder and each listed subcontractor submit a certified statement, as specified, and would impose a civil penalty, as provided, for knowingly providing false information in that statement. This bill would also make various legislative findings and declarations.

~~Existing law sets forth the policy of the state to aid the interests of specified business enterprises and establishes statewide participation~~

goals with respect to state-awarded contracts for business enterprises meeting certain criteria.

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) There are a tremendous number of returning veterans who*
4 *have served the United States honorably in the different branches*
5 *of the United States military.*

6 *(b) Facilitating the reentry of these returning veterans into the*
7 *private sector job market makes economic sense for these veterans,*
8 *their families, and for the economy of California as a whole.*

9 *(c) Many of these returning veterans have procured skills that*
10 *translate very well into the varied trades and crafts of the*
11 *construction industry.*

12 *(d) The Building and Construction Trades Department in*
13 *Washington, D.C. runs a program called Helmets to Hardhats,*
14 *whose sole purpose is to help returning veterans who are interested*
15 *in careers in the construction industry with the transition from*
16 *solider to private sector employee.*

17 *(e) The Helmets to Hardhats program has been recognized by*
18 *employers as an excellent resource for returning veterans to enter*
19 *the private sector job market as construction workers.*

20 *(f) Employers and unions throughout the United States have*
21 *agreed to utilize the Helmets to Hardhats program, and have*
22 *agreed to coordinate with the Center for Military Recruitment,*
23 *Assessment, and Veterans Employment to create and maintain an*
24 *integrated veterans database of veterans interested in working in*
25 *the construction industry.*

26 *SEC. 2. Article 6.5 (commencing with Section 999.30) is added*
27 *to Chapter 6 of Division 4 of the Military and Veterans Code, to*
28 *read:*

Article 6.5. *Helmets to Hardhats*

999.30. *For purposes of this article, “Helmets to Hardhats” means the Center for Military Recruitment, Assessment, and Veterans Employment program funded out of the grant program administered by the Department of Defense and initiated in the 2003 Department of Defense Appropriations Act (Public Law 107-248).*

999.31. (a) *When a state agency awards a public works contract to the lowest bidder or lowest responsible bidder, the state agency shall provide a 5-percent bid preference to a bidder that utilizes Helmets to Hardhats, which assists veterans with entry into the construction industry by providing preliminary orientation, assessing construction aptitude for referral to apprenticeship programs and hiring halls, and offering counseling, mentoring, and employment opportunities, pursuant to Section 999.32.*

(b) *A bidder shall be entitled to claim the bid preference only if the bidder and each listed subcontractor qualifies for the bid preference.*

(c) *The preference shall be calculated by reducing the bid by 5 percent of the bid of the lowest responsible bidder, for purposes of comparing the bid with competing bids.*

999.32. *A bidder or subcontractor qualifies for the bid preference under this article only if, during the 12-month period immediately preceding submission of the bid, the bidder or subcontractor utilized Helmets to Hardhats.*

999.33. *A bidder or subcontractor receiving a bid preference under this article shall utilize Helmets to Hardhats for not less than one year following acceptance of the bid.*

999.34. *A bidder shall claim the bid preference under this article by submitting a separate statement certifying that the bidder qualifies for the bid preference, and by submitting a separate statement from each listed subcontractor certifying that the subcontractor qualifies for the bid preference.*

999.35. (a) *A person or entity that knowingly provides false information in the certification required by this article shall be subject to a civil penalty for each violation in the minimum amount of two thousand five hundred dollars (\$2,500) and the maximum amount of twenty-five thousand dollars (\$25,000).*

1 (b) An action for a civil penalty under this section may be
2 brought by any public prosecutor in the name of the people of the
3 State of California.

4 999.36. (a) If the winning bidder has claimed a bid preference
5 under this article, then, at the request of the state agency, the
6 bidder and each listed subcontractor shall supply to the state
7 agency records sufficient to show that the bidder is entitled to the
8 preference. The failure to supply the records within a reasonable
9 time shall result in denial of the bid preference.

10 (b) If the winning bidder is denied the bid preference because
11 of the failure of a listed subcontractor to establish entitlement to
12 the bid preference, the winning bidder shall be granted 14 days
13 to substitute a new subcontractor that is entitled to the bid
14 preference, and the original subcontractor shall be liable to the
15 winning bidder for any reasonable increase in the cost of a new
16 subcontract.

17 ~~SECTION 1. Section 10115 of the Public Contract Code is~~
18 ~~amended to read:~~

19 ~~10115. (a) The Legislature finds and declares all of the~~
20 ~~following:~~

21 ~~(1) The essence of the American economic system of private~~
22 ~~enterprise is free competition. Only through full and free~~
23 ~~competition can free markets, reasonable and just prices, free entry~~
24 ~~into business, and opportunities for the expression and growth of~~
25 ~~personal initiative and individual judgment be assured. The~~
26 ~~preservation and expansion of that competition is basic to the~~
27 ~~economic well-being of this state and that well-being cannot be~~
28 ~~realized unless the actual and potential capacity of minority,~~
29 ~~women, and disabled veteran business enterprises is encouraged~~
30 ~~and developed. Therefore, it is the declared policy of the state to~~
31 ~~aid the interests of minority, women, and disabled veteran business~~
32 ~~enterprises in order to preserve reasonable and just prices and a~~
33 ~~free competitive enterprise, ensure that a fair proportion of the~~
34 ~~total number of contracts or subcontracts for commodities, supplies,~~
35 ~~technology, property, and services are awarded to minority, women,~~
36 ~~and disabled veteran business enterprises, and maintain and~~
37 ~~strengthen the overall economy of the state.~~

38 ~~(2) The opportunity for full participation in our free enterprise~~
39 ~~system by minority, women, and disabled veteran business~~
40 ~~enterprises is essential if this state is to attain social and economic~~

1 equality for those businesses and improve the functioning of the
2 state economy.

3 (3) ~~State agencies which have established short- and long-range~~
4 ~~minority, women, and disabled veteran participation goals are~~
5 ~~awarding 23 percent or more of their contracts to these business~~
6 ~~enterprises.~~

7 (4) ~~It is in the state's interest to expeditiously improve the~~
8 ~~economically disadvantaged position of minority, women, and~~
9 ~~disabled veteran business enterprises.~~

10 (5) ~~The economic position of these businesses can be improved~~
11 ~~by providing long-range substantial goals for procurement by state~~
12 ~~agencies of commodities, professional services, and construction~~
13 ~~work from minority, women, and disabled veteran businesses.~~

14 (6) ~~Procurement by state agencies of goods and services from~~
15 ~~these businesses also benefits state agencies and the citizens of the~~
16 ~~state by encouraging the expansion of the number of vendors for~~
17 ~~procurements, thereby encouraging competition among the vendors~~
18 ~~and promoting economic efficiency in the process.~~

19 (b) ~~It is the purpose of this article to do all of the following:~~

20 (1) ~~Encourage greater economic opportunity for minority,~~
21 ~~women, and disabled veteran business enterprises.~~

22 (2) ~~Promote competition among state agencies in order to~~
23 ~~enhance long-term economic efficiency in the procurement of~~
24 ~~construction, commodities, and professional services contracts.~~

25 (3) ~~Clarify and expand the program for the procurement by state~~
26 ~~agencies of commodities, professional services, and construction~~
27 ~~work from minority, women, and disabled veteran business~~
28 ~~enterprises.~~

29 (e) ~~Notwithstanding any other provision of law, contracts~~
30 ~~awarded by any state agency, department, officer, or other state~~
31 ~~governmental entity for construction, professional services (except~~
32 ~~those subject to Chapter 6 (commencing with Section 16850) of~~
33 ~~Part 3 of Division 4 of Title 2 of the Government Code), materials,~~
34 ~~supplies, equipment, alteration, repair, or improvement shall have~~
35 ~~statewide participation goals of not less than 15 percent for~~
36 ~~minority business enterprises, not less than 5 percent for women~~
37 ~~business enterprises and 3 percent for disabled veteran business~~
38 ~~enterprises. These goals apply to the overall dollar amount~~

- 1 ~~expended each year by the awarding department, as defined by~~
- 2 ~~Section 10115.1, pursuant to this article.~~

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